Senate File 447 - Introduced

SENATE FILE 447
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 107)

A BILL FOR

- 1 An Act modifying the periods of time to bring civil and
- 2 criminal actions, and including effective date provisions.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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- 1 Section 1. Section 614.1, subsection 12, Code 2015, is
- 2 amended to read as follows:
- 3 12. Sexual abuse or sexual exploitation by a counselor,
- 4 therapist, or school employee. An action for damages for
- 5 injury suffered as a result of sexual abuse, as defined in
- 6 section 709.1, by a counselor, therapist, or school employee,
- 7 as defined in section 709.15, or as a result of sexual
- 8 exploitation by a counselor, therapist, or school employee
- 9 shall be brought within five ten years of the date the victim
- 10 was last treated by the counselor or therapist, or within
- 11 five ten years of the date the victim was last enrolled in or
- 12 attended the school.
- 13 Sec. 2. Section 614.8, Code 2015, is amended to read as
- 14 follows:
- 15 614.8 Minors and persons with mental illness.
- 16 l. The times limited for actions in this chapter, or for
- 17 complaints or claims in chapter 216, 669, or 670, except those
- 18 brought for penalties and forfeitures, are extended in favor
- 19 of persons with mental illness, so that they shall have one
- 20 year from and after the termination of the disability within
- 21 which to file a complaint pursuant to chapter 216, to make a
- 22 claim pursuant to chapter 669 or 670, or to otherwise commence
- 23 an action.
- 24 2. Except as provided in section 614.1, subsection 9, or
- 25 section 614.8A, the times limited for actions in this chapter,
- 26 or for complaints or claims in chapter 216, 669, or 670, except
- 27 those brought for penalties and forfeitures, are extended in
- 28 favor of minors, so that they shall have one year from and
- 29 after attainment of majority within which to file a complaint
- 30 pursuant to chapter 216, to make a claim pursuant to chapter
- 31 669, or to otherwise commence an action.
- 32 Sec. 3. Section 614.8A, Code 2015, is amended to read as
- 33 follows:
- 34 614.8A Damages Commencement of action for minor or child
- 35 sexual abuse time limitation.

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- 1. Notwithstanding section 614.8, subsection 2, and the
- 2 times limited for actions in this chapter, the time to file an
- 3 action relating to sexual abuse which occurred when the injured
- 4 person was a minor is extended twenty-five years beyond the
- 5 minor's attainment of eighteen years of age.
- 6 2. An In addition to the extension of time provided in
- 7 subsection 1, an action for damages for injury suffered as
- 8 a result of sexual abuse which occurred when the injured
- 9 person was a child, but not discovered until after the injured
- 10 person is of the age of majority, shall be brought within four
- 11 twenty-five years from the time of discovery by the injured
- 12 party of both the injury and the causal relationship between
- 13 the injury and the sexual abuse.
- 14 Sec. 4. Section 802.2, subsection 1, Code 2015, is amended
- 15 to read as follows:
- 16 1. An information or indictment for sexual abuse in the
- 17 first, second, or third degree committed on or with a person
- 18 who is under the age of eighteen years shall be found within
- 19 ten years after the person upon whom the offense is committed
- 20 attains eighteen years of age, or if the person against whom
- 21 the information or indictment is sought is identified through
- 22 the use of a DNA profile, an information or indictment shall
- 23 be found within three years from the date the person is
- 24 identified by the person's DNA profile, whichever is later may
- 25 be commenced at any time after the commission of the offense.
- Sec. 5. Section 802.10, subsection 3, Code 2015, is amended
- 27 to read as follows:
- 28 3. However, notwithstanding subsection 2, an indictment
- 29 or information shall be found against a person within three
- 30 years from the date the person is identified by the person's
- 31 DNA profile. If the action involves sexual abuse of a person
- 32 eighteen years of age or older or another sexual offense, the
- 33 indictment or information shall be found as provided in section
- 34 802.2, subsection 2, or 802.2B, if the person is identified by
- 35 the person's DNA profile.

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- 1 Sec. 6. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
- 2 immediate importance, takes effect upon enactment.
- 3 EXPLANATION
- The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.
- 6 This bill modifies the periods of time to bring civil and
- 7 criminal actions relating to young persons and persons with
- 8 mental illness.
- 9 Under current Code section 614.1(12), a civil action for
- 10 damages for injury suffered as result of sexual abuse, as
- 11 defined in Code section 709.1, or sexual exploitation, by a
- 12 counselor, therapist, or school employee, each as defined in
- 13 Code section 709.15, can only be brought within five years
- 14 after the date that the victim was either last treated by the
- 15 counselor or therapist or last enrolled in or attended the
- 16 school. The bill amends the current law to provide that a
- 17 victim may bring such an action within 10 years of the date
- 18 that the victim was either last treated by the counselor or
- 19 therapist or last enrolled in or attended the school.
- 20 Under current Code section 614.8, the applicable limitations
- 21 period in which to bring certain civil actions is extended for
- 22 persons with mental illness and minors. Under current Code
- 23 section 670.2, a municipality is subject to liability for the
- 24 municipality's torts and those of the municipality's officers
- 25 and employees, acting within the scope of such officers'
- 26 and employees' employment or duties. Under current Code
- 27 section 670.5, an action for damages for an injury against a
- 28 municipality cannot be brought after two years of the alleged
- 29 injury, except as provided in Code section 614.8.
- 30 The bill amends Code section 614.8 to specify that the
- 31 extension of the limitations period for persons with mental
- 32 illness and for minors applies to claims brought pursuant to
- 33 Code chapter 670, which chapter is already referenced at the
- 34 beginning of the sentences extending the limitations period.
- 35 The amendment to Code section 614.8A in the bill extends

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- 1 the time for filing a civil action relating to sexual abuse
- 2 which occurred when the injured person was a minor from one
- 3 year after the attainment of majority to 25 years after the
- 4 attainment of majority.
- 5 The amendment to Code section 614.8A in the bill also
- 6 provides that a civil action for damages relating to sexual
- 7 abuse which occurred when the injured party was a child shall
- 8 be brought within 25 years from the time of the discovery of
- 9 both the injury and the causal relationship between the injury
- 10 and the sexual abuse. Current law specifies such an action
- 11 shall be brought within four years from the time of discovery
- 12 of both the injury and the causal relationship between the
- 13 injury and the sexual abuse.
- 14 The amendment to Code section 802.2 in the bill provides
- 15 that a criminal information or indictment for sexual abuse
- 16 in the first, second, or third degree committed on or with
- 17 a person under the age of 18 may be commenced at any time
- 18 after the commission of the offense. Current law specifies
- 19 the indictment or information for such sexual abuse be found
- 20 within 10 years of the sexually abused person attaining 18
- 21 years of age or within three years after being identified by
- 22 DNA evidence, whichever is later.
- 23 The bill takes effect upon enactment.